

FOOD STAMP PROGRAM REQUEST FOR REGULATION INTERPRETATION

INSTRUCTIONS: Complete items 1 - 10 on the form. Use a separate form for each policy interpretation request. Retain a copy of the FS 24 for your records. For counties asking for policy interpretations, submit the question directly to a FRAT representative via e-mail. For other organizations (e.g., Quality Control, Administrative Law Judges), submit questions directly to the Food Stamp Policy Implementation Unit or Employment and Special Projects Unit representative via e-mail.

1. RESPONSE NEEDED DUE TO: <input type="checkbox"/> Policy/Regulation Interpretation <input type="checkbox"/> QC <input checked="" type="checkbox"/> Fair Hearing <input type="checkbox"/> Immediate Need/Emergency Services <input type="checkbox"/> Other:	5. DATE OF REQUEST: 8/13/2012	NEED RESPONSE BY: asap
2. REQUESTOR NAME:	6. COUNTY/ORGANIZATION: SHD	
3. PHONE NO.:	7. SUBJECT: application of three year statute of limitations to collect an IHE	
4. REGULATION CITE(S): §63-801.111	8. REFERENCES: (Include ACL/ACIN, court cases, etc. in references) NOTE: All requests must have a regulation cite(s) and/or a reference(s). ACIN No. I-03-02	

9. QUESTION: (INCLUDE SCENARIO IF NEEDED FOR CLARITY):

I am reviewing a decision in which the claimant has requested a rehearing to dispute the judge's upholding of the county's right to demand that she repay a \$4345 CalFresh overissuance for the period of August 2007 through July 2009, \$2920 of which the county had already collected through a federal tax intercept.

The evidence in this case indicates that the county sent the claimant's ex-husband a notice of action dated June 27, 2011 in which it informs him of a \$4345 CalFresh overissuance. A review of the notice reveals that it is legally inadequate for not including the computations on which it based this overissuance. There was no evidence presented that the claimant's ex-husband requested and participated in a state hearing in response to this notice.

~~The claimant requested a state hearing on April 9, 2012 in response to an INS tax intercept notice dated March 14, 2012 informing her~~

10. REQUESTOR'S PROPOSED ANSWER:

It is my first impression that the 2012 INS letter would not constitute a "demand letter" referred to in ACIN I-03-02 and, therefore, the county cannot collect against the claimant, because it did not meet the statute of limitations under Sec. 63-801.111.

This belief is based on the fact that the letter from INS does not meet the requirements for legal adequacy of notice under CDSS regulations and federal regulations.

11. FRAT RESPONSE TO COUNTY QUESTION:

12. STATE POLICY RESPONSE (FSPIU USE ONLY):

The household was adequately noticed of the overissuance by the county June 27, 2011 per MPP 63-801.431. When the NOA was issued to the HH on June 27, 2011, counties were not required to include an overissuance budget worksheet. ACL 11-26 dated March 14, 2011 requires counties to comply with the Heathcock lawsuit which mandates overissuance NOAs include an overissuance budget worksheet within six months of the date of the ACL issuance. Therefore, all overissuance NOAs must include an overissuance budget worksheet after September 14, 2011.

Additionally, Per MPP 63-801.1, all adult household members shall be jointly and individually liable for the value of any overissuance of benefits to the household. Therefore, since the HH was sufficiently noticed of the overissuance and the wife was part of the HH when the overissuance occurred, the tax intercept was an appropriate action.

FOR FRAT USE

DATE RECEIVED:	DATE RESPONDED TO COUNTY:	DATE FORWARDED TO STATE:
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9. QUESTION: (INCLUDE SCENARIO IF NEEDED FOR CLARITY): (Continued)

The claimant requested a state hearing on April 9, 2012 in response to an INS tax intercept notice, dated March 14, 2012, informing her that \$2920.00 of her refund had been applied to a debt owed Riverside County Social Services. There was no evidence presented or factual finding that the county had sent the claimant a notice of action about this overissuance prior to the intercept. The decision indicates that the claimant and her ex-husband have been living apart since 2009, and that the tax intercept was the first that the claimant heard about the overissuance determination.

My question is this:

§63-801.111 provides that the county shall take action on inadvertent and administrative error claims for which less than three years have elapsed between the month the overissuance occurred and the month the county determined by computation that an overissuance occurred, irrespective of the date the claim determination was completed.

ACIN No. I-03-02 provides, in pertinent part, the following:

Claims for overissuances (OIs) are "established" by documenting the amount of and the reason for the OI and issuing a demand letter to the client. The date of the demand letter is the date that the claim is established [7 CFR §273.18(e)(3)(iii)]. Computing the amount of an overissuance does not constitute the establishment of an OI claim. Counties must compute the amount of the overissuance and issue the demand letter within the three-year timeframe. If the county does not compute the overissuance until the end of the three-year time period, a claim cannot be considered established against the household."

Does Program consider the 2012 INS letter sent to the claimant a "demand letter" for the purposes of the above regulation, or must the "demand letter" be a notice of action?

Secondly, since it is undisputed that the letter from the INS does not meet the CDSS requirements for adequate notice, if Program considers the INS letter to be a demand letter for the purposes of this regulation, what is it relying upon in state or federal regulation?

This is important, because it will determine if the county is able to meet the three year time frame requirement for the purpose of demanding repayment against the claimant.

Thank you very much.